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Mayor

CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development

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Public Hearing Date:	June 22, 2010
Land Use Action Date:	July 20, 2010
Board of Aldermen Action Date:	September 7, 2010
90-Day Expiration Date:	September 20, 2010

DATE: June 16, 2010

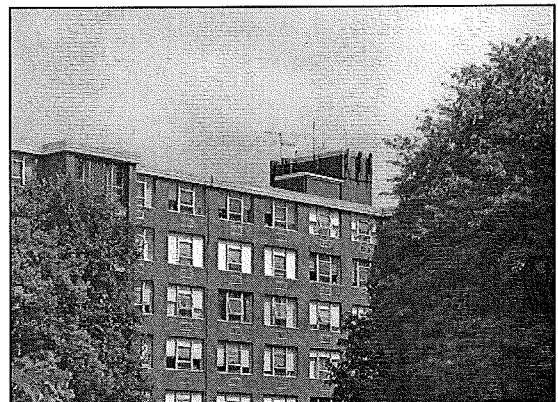
TO: Board of Aldermen

FROM: Candace Havens, Acting Director of Planning and Development
Maurya Sullivan, Principal Planner

SUBJECT: #282-06(2) CLEAR WIRELESS, LLC /HAMMOND POND TRUST petition to AMEND Special Permit/Site Plan Approval #282-06, granted on 11/6/06 for the installation of wireless communication equipment, in order to replace one panel antenna and to add two panel and two dish antennas at 20 HAMMOND POND PARKWAY, Ward 7, CHESTNUT HILL, on land also known as Sec 82, 2, 21A1, containing approximately 175,950 sq ft of land in a district zoned MULTI RESIDENCE 3. Ref: Sec. 30-24, 30-23, and 30-18A(e)(6) of the City of Newton Rev Zoning Ord, 2007.

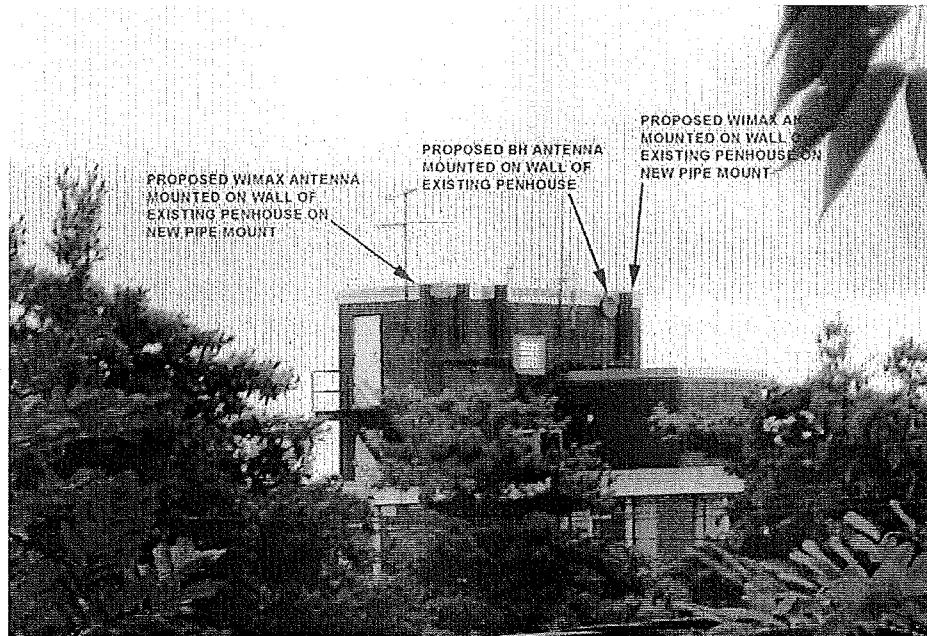
CC: Mayor Setti D. Warren

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



EXECUTIVE SUMMARY

The petitioner proposes to replace one panel antenna and to add two panel and two dish antennas to an existing installation on the building penthouse. The proposed installation meets the design and operating criteria for wireless installations found in §30-18A(c). Section 30-18 encourages the co-location of wireless equipment, as proposed in this project, in order to reduce the need for additional telecommunications sites. In addition, the 2007 *Newton Comprehensive Plan* establishes the importance of maintaining the existing character of the City's neighborhoods. By locating the proposed equipment on an existing building with existing wireless installations, the petition helps to maintain the character of the site and the surrounding Chestnut Hill neighborhood.



Simulated modifications - Northeast view

I. SIGNIFICANT ISSUES FOR CONSIDERATION

In reviewing this petition the Board should consider:

- whether this is an appropriate location for a modified wireless installation; and
- whether the addition of the antennas will have an impact on the surrounding neighborhood.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The property is located on the southwest side of Hammond Pond Parkway, adjacent to the Boylston Street (Route 9) in Chestnut Hill. It is located within a Multi

Residence 3 district (*SEE ATTACHMENTS "A" AND "B"*). The neighborhood contains a mix of uses. There are commercial uses along Boylston Street to the north and east. Residential uses, multi-storied apartment and condominium buildings and one- and two-family houses in the remainder of the neighborhood to the south and west. The upper Chestnut Hill Mall is across Boylston Street to the North.

B. Site

The 179,950 sq. ft. site contains four (4) residential buildings. The existing wireless installation was permitted by special permit in 2006 (*SEE ATTACHMENT "D"*). The building complex is located on the southwest intersection of Hammond Pond Parkway and Boylston Street (Route 9).

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The site is currently used for residences and for wireless equipment. The petitioner proposes to replace one panel antenna and to add two panel and two dish antennas to the building penthouse.

B. Site Design

The application entails the relocation of one existing panel antenna, the replacement of one existing panel antenna with another of similar dimension, and the addition of two new panel antennas. Each panel antenna will be approximately four feet in height. There are two backhaul dishes. One with a diameter of two feet and one dish with a diameter of 2½ feet to be mounted to the building penthouse. In addition, to comply with federal standards, the petitioner proposes to install one global positional system antenna on the penthouse roof. While the antennas will be visible from adjacent properties because of their height, they will not cause a significant change in the visual impact of the existing installation. An equipment cabinet will be located inside an existing basement equipment room and will not be visible from any adjacent properties.

C. Parking and Circulation

The existing installation includes driveway access from Hammond Pond Parkway. The petitioner proposes to continue using the same access. There will not be any personnel on-site except for approximately two vehicle trips per month for maintenance. These additional trips will not create a significant impact the neighborhood.

D. Landscape Screening and Lighting

No landscape screening is proposed because of the height of the proposed

modification on the roof. Given the minimal visual impact of the additional antennas and dishes, no additional screening is necessary.

IV. COMPREHENSIVE PLAN

There is little discussion of wireless installations in the 2007 *Newton Comprehensive Plan*. However, the *Comprehensive Plan* says that "development is to be guided to reflect the character held or sought by existing residential neighborhoods, protecting the qualities of that which exists." By adding additional wireless antennas and dishes to an existing installation, this proposal minimizes changes to the character of this site and minimizes potential changes to the character of other sites that could be alternatives to the proposed installation.

V. TECHNICAL REVIEW

- A. Technical Considerations (Section 30-15). The Zoning Review Memorandum provides an analysis of the proposal with regard to Section 30-18. A special permit is required to amend an existing site plan approved by board order, to add additional building-mounted wireless equipment, and to modify an existing wireless installation. The proposed installation meets the design and operating criteria found in §30-18A(c).
- B. Parking Requirements (Section 30-19). The proposed changes do not trigger any additional parking requirements.
- C. Other Reviews
 1. Engineering. No engineering review is necessary because the petition will not increase or modify impervious surfaces on site.
 2. Fire Department. Because there are no changes to the site plan other than the addition of several antennas to the existing installation, no fire access review is necessary. Fire prevention review will occur as part of the building permit application process.

VI. ZONING RELIEFS SOUGHT

Based on the completed zoning review (*SEE ATTACHMENT "C"*) the petitioner is seeking approval through or relief from:

- §30-18A(e)(6), which allows the Board of Aldermen to grant a special permit for building-mounted wireless communication equipment in a residential district
- §30-18A(e)(8), which allows the Board of Aldermen to grant a special permit for modification or addition to wireless communication equipment on an

existing tower

- §30-18A(f), which allows the Board of Aldermen to amend the site plan approved through Board Order #282-06
- §30-24, which allows the Board of Aldermen to grant a special permit for building-mounted wireless communication equipment when §30-18A(a) & (c) have been satisfied
- §30-23, which allows the Board of Aldermen to grant site plan approval

VII. Summary of Petitioner's Responsibilities

This petition is currently complete.

ATTACHMENTS

ATTACHMENT A: *Zoning Map*
ATTACHMENT B: *Land Use Map*
ATTACHMENT C: *Zoning Review Memorandum*
ATTACHMENT D: *BO #282-06*

Zoning Map

20 Hammond Pond Parkway and Vicinity City of Newton, Massachusetts

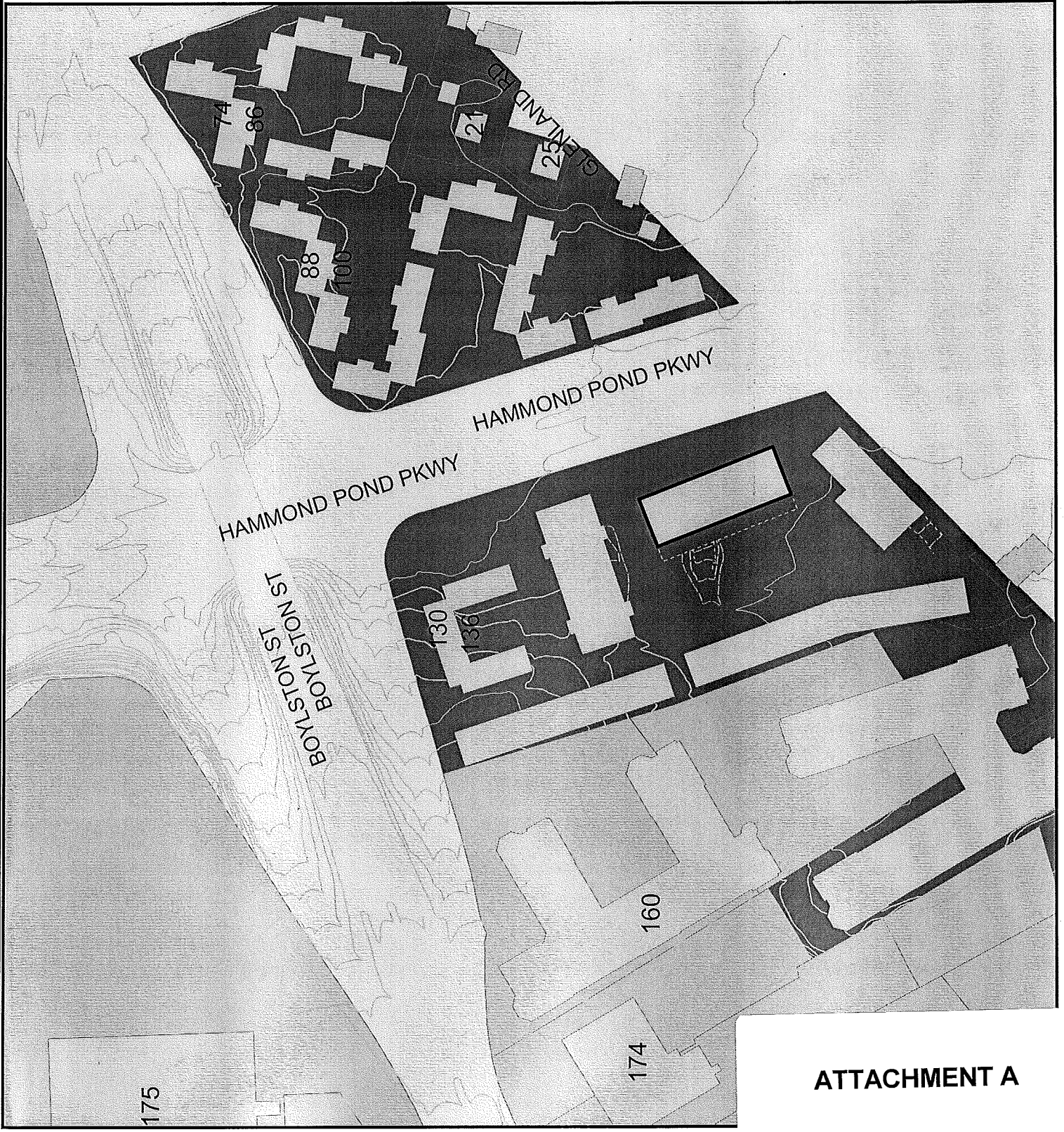
Legend	
	Building Outlines
	Single Res. 1
	Single Res. 2
	Single Res. 3
	Business 1
	Business 2
	Business 4
	Business 5
	Limited Manufacturing
	Manufacturing
	Multi-Res. 1
	Multi-Res. 2
	Multi-Res. 3
	Multi-Res. 4
	Mixed Use 1
	Mixed Use 2
	OS/Rec.
	Public Use
	Surface Water



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.



MAP DATE: June 16, 2010



ATTACHMENT A

Land Use Map

20 Hammond Pond Parkway and Vicinity City of Newton, Massachusetts

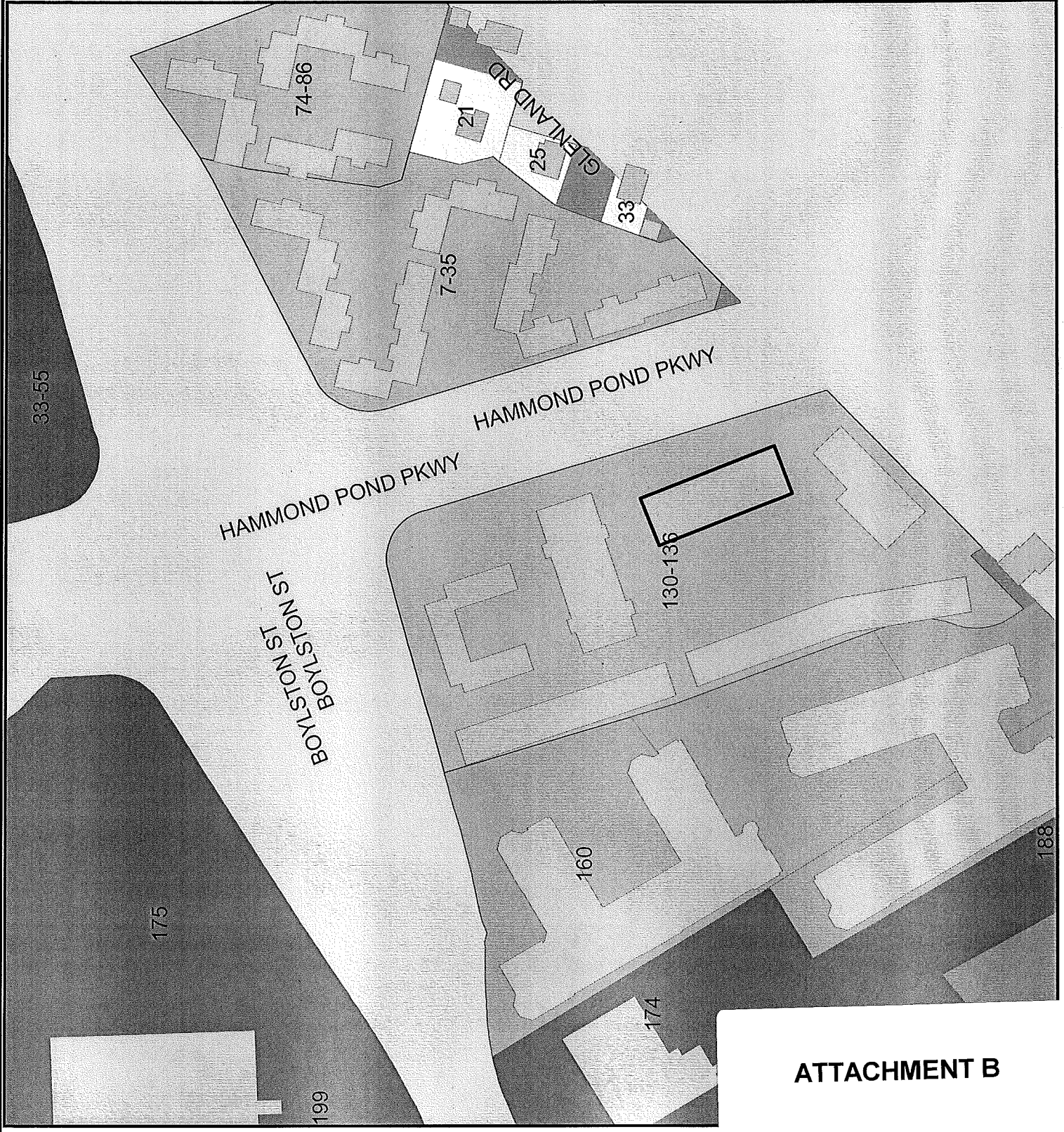
Legend	
	Building Outlines
	Single Family Residential
	Two Family Residential
	Condominiums
	Other Residential
	Mixed Use
	Commercial
	Industrial
	Vacant Land
	Golf Course
	Open Space
	Private Educational
	Nonprofit Organizations
	Public Housing
	Tax Exempt
	Unspecified
	Surface Water



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MAP DATE: June 16, 2010



ATTACHMENT B

Zoning Review Memorandum

Proposed Wireless Communication Installation

To: John Lojek, Commissioner of Inspectional Services

From: Candace Havens, Chief Planner/Interim Director of Planning and Development
Maurya Sullivan, Principal Planner/Telecommunications Specialist

cc: Eve Tapper, Chief Zoning Code Official
Jason Ellis, Prince Lobel Glovsky & Type LLP



Re: Proposed installation of 1 Panel Antenna and 2 Wireless Backhaul Dishes in MR3 District

Applicant: Clearwire, LLC/Hammond Pond Trust

Site: 20 Hammond Pond Parkway

SBL: 82-2-21

Lot Area: 179,950 sq ft

Zoning: MR-3

Current Use: Wireless Communications

Proposed Use: Wireless Communications

Type of Wireless Installation:

Modification of existing wireless installation by addition of two dish antennas, addition of two panel antennas and replacement of one panel antenna in a residential district per Section 30-18A(e)(6).

Background:

The property consists of a condominium used for multi-family residential purposes. The Applicant has an existing wireless installation approved by B.O. #282-06. The applicant seeks approval pursuant to Section 30-18A(e)(6), *Wireless Communication Equipment Allowed by Special Permit* because the installation is in a residential district.

Administrative determinations:

- ◆ Section 30-18A(e)(6) requires a special permit for building-mounted wireless communication equipment in residential districts.
- ◆ Sections 30-18A(f) and 30-24 require site plan review.
- ◆ The applicant has submitted a copy of the application to the Director of Planning and Development for Administrative Site Plan review, per Section 30-18A(g) for compliance with Section 30-18A(c).
- ◆ See table "Zoning Relief Summary" below.

Zoning Relief Summary

<i>Ordinance</i>		<i>Action Required</i>
	Amendment to existing Board Orders	
30-18A(f)	Amend site plan approved via Board Order #282-06	X
	Wireless Communication Installation	
30-18A(e)(6)	Building-mounted wireless communication installation on a multi-family structure	SP per §30-24
	Site	
30-18A(f)	Approval of site plan per §30-23	X

CITY OF NEWTON
IN BOARD OF ALDERMEN

November 6, 2006

ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, hereby grants the following SPECIAL PERMIT and SITE PLAN APPROVAL for the installation of 12 wireless antennas, 3 GPS antennas and 2 condenser units on the roof of an existing multi-family building, in accordance with the recommendation of the Land Use Committee and the reasons given by the Committee therefor, through its Chairman, Alderman George E. Mansfield:

1. The Board finds that the public convenience and welfare will be served through the installation of the 12 wireless antennas and 3 GPS antennas on the roof of the building because:
 - a. This wireless provider will be able to provide greater coverage and improved services for its customers;
 - b. The antennas and two roof-mounted condenser units should have no adverse visual or noise impacts on the residents of this building or the surrounding neighborhood; and
 - c. There should no adverse impacts from the ancillary equipment since it will be located in the basement of the building, away from the residents and abutters;

PETITION NUMBER: #282-06

PETITIONER: Terra Search, LLC. FOR Sprint Spectrum, LP, d/b/a Sprint Nextel and Hammond Park Trust

LOCATION: 20 Hammond Pond Parkway, Chestnut Hill, Ward 7, Section 82, Block 2, Lot 21

OWNER: Hammond Park Trust, c/o The Isenberg Company

ADDRESS OF OWNER: P.O. Box 67, Dedham, MA 02027

TO BE USED FOR: Installation of 12 wireless antennas, 3 GPS antennas and 2 condenser units on the roof of an existing multifamily

structure, with the ancillary equipment installed in the basement.

CONSTRUCTION:

Antennas attached to existing penthouse structure, condensers mounted on a Spring Rail assembly system on the roof.

EXPLANATORY NOTE:

Section 30-18A(e)(6) allows the Board to grant a special permit for building-mounted wireless communication equipment on a multi-family structure in a Multi Residence I District not otherwise allowed as-of-right; Section 30-18A(e)(10) allows the Board to grant a special permit to allow for the condenser units to be located on the roof; and Section 30-24(d) allows the Board to grant a special permit for building mounted wireless communication equipment when Section 30-18A (a) and (c) have been satisfied.

Land referred to is located in a Multi Residence 3 District.

Approved, subject to the following conditions:

1. The 12 antennas, 3 GPS antennas and two roof-mounted condensers shall be located and constructed consistent with the plans prepared by Kenneth Dennison, P.E., of TerraSearch Design Group, 270 Centre Street, Holbrook, MA, dated 10/6/06, including the following sheets:
 - a. Sheet T-1 entitled "Title Sheet";
 - b. Sheet Z-1 entitled "Site Plan, Roof Plan, Basement Level Plan"; and
 - c. Sheet Z-2 entitled "General Notes, North Elevation, antenna Specifications."
2. This Special Permit shall be limited to the use of Sprint/Nextel Corp., D/B/A Sprint, One International Blvd., Mahwah, NJ or its successors, and shall not be transferable.
3. The antennas shall be painted to match the existing penthouse. Color samples of the proposed paint shall be submitted to the Director of Planning and Development for review prior to issuance of any building permits.
4. The equipment shall be kept in good appearance and in good operating order at all times.
5. If the wireless communication use ceases, the petitioner shall be responsible for the removal of all equipment associated with this Special Permit within thirty (30) days.
6. If new technological changes allow for smaller or internal equipment, the petitioner shall take advantage of such technology and shall replace the equipment approved herein to the extent feasible at this location, and approval for such replacement shall not be unreasonably withheld by the property owner of 20 Hammond Pond Parkway.

7. The petitioner shall comply with the City's Noise Ordinance, Section 20-13 of the Revised Ordinances of the City of Newton, 2001.
8. The petitioner shall install the rooftop condensers on Novi Associates, Inc. FRR-2 Spring Rails or equivalent vibration isolation rail system in order to reduce the vibration impacts of these units on the residents of the building, in accordance with the Addendum C of the March 16, 2006 correspondence from Cavanaugh Tocci Associates, Inc. to Mr. Steven C. Govoni, Division Manager, TerraSearch, LLC., on file with the City Clerk.
9. No building permit shall be issued in pursuance of this SPECIAL PERMIT/SITE PLAN APPROVAL until:
 - a. The petitioner shall have recorded with the Registry of Deeds for the Southern District of Middlesex County a Certified copy of this Board Order granting this SPECIAL PERMIT/SITE PLAN APPROVAL with appropriate reference to the book and page of the recording of the Petitioner's title deed or notice of lease endorsed thereon.
 - b. A certified copy of such recorded notice shall have been filed with the City Clerk, the Inspectional Services Department and the Department of Planning and Development.
 - c. The petitioner shall have submitted the color samples for the antennas for review and approval by the Director of Planning and Development.
 - d. The petitioner shall have submitted final building permit plans that shall include the vibration isolation rail system details, in accordance with Condition 8., above, for review and approval by the Commissioner of Inspectional Services.
10. A final certificate of occupancy for the wireless equipment approved through this SPECIAL PERMIT/SITE PLAN APPROVAL shall be not be issued until:
 - a. The petitioner shall have filed with the City Clerk, the Department of Inspectional Services and the Department of Planning and Development, a statement by a registered architect or registered engineer certifying compliance with Condition 1.

Under Suspension of Rules
Readings Waived and Approved
24 yeas 0 nays

The undersigned hereby certifies that the foregoing copy of the decision of the Board of Aldermen granting a SPECIAL PERMIT/SITE PLAN APPROVAL is a true accurate copy of said decision, the original of which having been filed with the CITY CLERK on 11/9/06. The undersigned further certifies that all statutory requirements for the issuance of such SPECIAL PERMIT/SITE PLAN APPROVAL have been complied with and that all plans referred to in the decision have been filed with the City Clerk.

ATTEST:

(SGD) DAVID A. OLSON, City Clerk
Clerk of the Board of Aldermen

I, David A. Olson, as the Clerk of the Board of Aldermen and keeper of its records and as the City Clerk and official keeper of the records of the CITY OF NEWTON, hereby certify that Twenty days have elapsed since the filing of the foregoing decision of the Board of Aldermen in the Office of the City Clerk on _____ and that NO APPEAL to said decision pursuant to M.G.Laws Chapter 40, Section 17 has been filed thereto.

ATTEST:

(SGD) DAVID A. OLSON, City Clerk
Clerk of the Board of Aldermen